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THE TRIAL OF

Mr. *Josiah Fearn*, &c.

(The SECOND EDITION)

To which is added,

The JUDGE's SPEECH to the *Prisoner*, at passing *Sentence of Death.*

RB23 a.7043

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THE WHOLE TRIAL OF Mr. JOSIAH FEARN,

Of *Leeds*, in the County of *YORK*;

FOR THE

MURDER OF Mr. THOMAS GRAVE,

At the ASSIZES, held at the Caſtle of *York*, on *Friday*, the 10th of *March*, 1748.

Carefully taken down in COURT.

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Printed by CÆSAR WARD, in *Coney-ſtreet*.

M, DCC, XLIX.

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THE TRIAL OF Mr. *Joſiah Fearn.*

ON *Friday* the 10th of *March*, 1748-9, at the Aſſizes, held at the Caſtle of *York*, in and for the County of *York*, before the Hon. Sir THOMAS BURNET, Knight, one of His Majeſty's Juſtices of the Court of Common Pleas, came on the Trial of Mr. *Joſiah Fearn*, of *Leeds*, in the County of *York*, Salter.

The Names of the Jury were as follows:

Mr *Francis Iles*, of *Knaresbrough*, Foreman.
Mr *John Bramley*, of *Aſerley*.
Mr *William Wood*, of the ſame.
Mr *John Newſome*, of *Askwith*.
Mr *Thomas Oaſtler*, of *Burton-Leonard*.
Mr *Thomas Rogers*, of *Carleton*.
Mr *Joſeph Rogers*, of the ſame.
Mr *Richard Gilſon*, of *Burton-Salmon*.
Mr *George Robinſon*, of *Topcliffe*.
Mr *John Wailes*, of *Huſthwait*.
Mr *Thomas Lancaſter*, of *Dalton*.
Mr *Beckwith Rooth*, of *Ricall*.

The *Indictment* ſet forth, 'That *Joſiah Fearn*, late of *Leeds*, in the County of *York*, Salter, not having the Fear of God before his Eyes, but being mov'd and ſeduced by the Inſtigation of the Devil, on the 24th Day of *February* laſt, with Force and Arms, at *Leeds* aforeſaid, in the County aforeſaid, upon one *Thomas Grave*, in the Peace of God and our Lord the King, then and there being, feloniouſly, wilfully, and of his Malice aforethought, did make an Aſſault; and that the ſaid *Joſiah Fearn*, with a certain Knife, of the Value of Two-Pence, which he, the ſaid *Joſiah Fearn*, in his Right Hand, then and there had and held, the ſaid *Thomas Grave* in and upon the Left Side of the Belly, between the ſecond and third Ribs, counting upwards, of him the ſaid *Thomas Grave*, then and there feloniouſly, wilfully, and of his Malice aforethought, did ſtrike, pierce and thruſt, giving to the ſaid *Thomas Grave* then and there, with the Knife aforeſaid, in and upon the aboveſaid Left Side of the Belly, between the ſecond and third Ribs, counting upwards, of him the ſaid *Thomas Grave*, one mortal Wound, of the Breadth of one Inch and an half, and the Depth of three Inches, of which ſaid mortal Wound, the ſaid *Thomas Grave* from the ſaid 24th Day of *February*, in the Year aforeſaid, until the 2d Day of *March*, in the Year aforeſaid, at *Leeds* aforeſaid, in the County aforeſaid, did languiſh, and languiſhing did live, on which ſaid 2d Day of *March*, in the Year aforeſaid, at *Leeds* aforeſaid, in the County aforeſaid, the ſaid *Thomas Grave* of the ſaid mortal Wound died. And that the ſaid *Joſiah Fearn*, the ſaid *Thomas Grave* in Manner and Form aforeſaid, feloniouſly, wilfully, and of his Malice aforethought, did kill and murder, againſt the Peace of our ſaid Lord the King his Crown and Dignity.'

The

The said *Josiah Fearn* was also indicted upon the Statute of Stabbing, and likewise upon the Coroner's Inquest, to which he pleaded *Not Guilty*.

The Counsel, on the Part of the Crown, were Mr. Serjeant *Bootle*, Mr. *Crowle*, and Mr. *Wilson*, jun. of *Leeds*.——And for the Prisoner were Mr. *Place*, Recorder of *York*; Mr. *Stanhope*, and Mr. *Stables*.

The Counsel for the Crown having, in the most candid, humane Manner, open'd the Case to the Jury, proceeded to call their Witnesses.

Benjamin Chapman deposed, 'That on the Evening of the 24th of *February* last, he, and *George Williamson*, having Cloth milling at *Thomas Grave*'s Mill, they went to see in what Condition it was; and also went into the Deceas'd's House: And, whilst they were there, *Josiah Fearn*, whose Dwelling-House is very near the Deceased's, came in, between seven and eight o'Clock, and immediately asked, *Whose House is this?* Tom Grave *says it's none of mine* (a). And then he came to the Deceased's Wife

(a) *In order to explain the Meaning of this Question, it may be necessary to take Notice*, That *Josiah Fearn* was Owner of an undivided Moiety of a Fulling-Mill in *Leeds*, and of one Tenement or Dwelling-House with the Appurtenances thereto adjoining, and that *Elizabeth Greaves*, a Minor, Daughter of the late *Jonathan Greaves* (for whom the Deceas'd, Mr *James Lee* and Mr *Richard Holdsworth* were Trustees) is the Owner of the other Moiety.——That the said *Jonathan Greaves* in his Life-Time, demis'd his Moiety of the said Mill to *William Cookson*, Esq; for eleven Years, ending at *Martinmas*, 1748, during all which Term, the De-

Wife, who was ſitting by the Fire, upon a Chair, with a young Child upon her Lap, and ſaid to her, *God damn thee, riſe, and let me ſit. I ſay, God damn thee, riſe, that's my Seat—thou Beaſt!* To which Mrs. *Grave* anſwered, *Nay this is not your Seat, it is our own.* To which *Fearn* reply'd, *God damn thee—that is thy Inſolence, thou Dunghill!* And then potter'd out great Part of the Fire with his Stick, and, in ſo doing, threw ſome Part of the burning Coals upon the Skirts of Mrs. *Grave*'s Cloaths; and then he ſaid, *God damn thee—where is thy villainous Husband, that Rogue*, Tom Grave? — *I want him, Damn him—fetch him.* To which Mrs *Grave* made Anſwer, *He ſaid, when he was going out, he was going to meet you.* To which *Fearn* replied, *God damn him*

Deceas'd was employ'd by the ſaid *William Cookſon* as his Maſter-Millman or Agent; and he was alſo employ'd as Maſter-Millman for the ſaid *Joſiah Fearn*, in reſpect of his Moiety 'till *Michaelmas*, 1747, when the ſaid *Joſiah Fearn* put one *John Croſland* into the Mill to act for the ſaid *Fearn* in reſpect of his Moiety, who is ſtill continued under the ſaid *Fearn*.—— That the Deceas'd occupied and lived in the ſaid Tenement, and enjoyed the whole thereof untill *September* laſt; that the ſaid *Joſiah Fearn* forcibly ſevered and divided the ſame into two Tenements, ſince which the Deceas'd only occupied that Part of the ſaid Tenement wherein he lived at the Time of his Death, the other Part of the ſaid Tenement as ſevered by the ſaid *Fearn* being in his own Hands. The Deceas'd was not to pay any Rent for the Houſe he lived in, the Houſe being conſider'd as a Part of his Perquiſites or Wages.—But 'tis preſumed that *Joſiah Fearn*'s making uſe of this Expreſſion was to inſinuate, that as he was Owner of a Moiety of the ſaid Mill and Tenement, he had a Right to go into *Grave*'s Houſe at his Pleaſure, and was not liable to be turn'd out upon any Miſbehaviour.

him—I took him not with me—I'll have no ſuch Rogues nor Villains in my Company. God Damn him—he thought to have ſworn my Life away (b)! And after calling Mrs. *Grave* many ſcurrilous and abuſive Names, which he (this Witneſs) had no Inclination to repeat; farther ſaid, *Doſy* (*c*), *I'll give thee Correction; thou ſhalt ſuffer, (it ſhall be to thy Loſs) and ſo ſhall thy villainous Husband*, Tom Grave—*I'll move him!* That he (*Chapman*) being very uneaſy at this Kind of Converſation, offer'd to go out; but Mrs. *Grave* beckon'd to him to ſtay; which *Fearn* obſerving, ſaid, *God damn her—does ſhe beckon?* But *Chapman*, willing to excuſe it, ſaid, *No, ſhe did not.* To which *Fearn* reply'd, *I thought ſhe had*; and then went away.'

That as ſoon as *Fearn* was gone, Mrs *Grave* ſent for her Huſband; but before he got Home, *Fearn* came a ſecond Time, and continu'd to give Mrs *Grave*

(*b*) One *John Gray*, having at the Adjournment of the laſt *Midſummer* Seſſions held for the Borough of *Leeds*, preferred an Indictment againſt *Joſiah Fearn* for aſſaulting and threat'ning to ſhoot him, and the ſaid *John Gray* and the Deceas'd having a Joint Demand on the ſaid *Joſiah Fearn*, and the Deceas'd having alſo a ſeparate Demand upon the ſaid *Joſiah Fearn*, and the ſaid *Joſiah Fearn* pretending to have ſome Demand upon them, they in *November* laſt referred all Matters in Difference amongſt them, to three Arbitrators; but theſe making no End, the ſaid *Gray* at an Adjournment of *Leeds* Seſſions (held the twenty-third of *February* laſt, the Day before this melancholy Affair happened) proſecuted the ſaid Indictment to Trial, upon which Trial the Deceas'd gave Evidence on the Behalf of the ſaid *John Gray*: But *Joſiah Fearn* was acquitted.

(*c*) Mrs *Grave*'s Chriſtian Name being *Theodoſia*.

Grave very ſcurrilous and abuſive Language as before; during which *Thomas Grave*, the Deceas'd, came in and ſaid, *What's the Matter*; to which *Fearn*, the Priſoner, anſwer'd, *God damn thee, thou Rogue, thou Villain, where haſt thou been*; to which *Grave* replied, *I have been about my Buſineſs*; upon which *Fearn* ſaid, *God damn thee! Thy Buſineſs is in the Mill, thou Villain*; to which *Grave* anſwer'd, *Sometimes it is, and ſometimes it is not; but what if it is, I'm none of your Servant.* But *Fearn* continuing to go on in the ſame abuſive Manner as before, *Grave* ſaid, *'Tis very ſtrange, Mr* Fearn, *that as we executed Arbitration-Bonds but this very Afternoon, you ſhould behave in ſo outrageous a Manner, I'll not ſuffer ſuch Abuſe in my own Houſe; pray, Mr* Fearn, *either be quiet or withdraw.* To which *Fearn* ſaid, *No, God damn thee! Ill not withdraw for any ſuch Rogue and Villain as thou art:* Whereupon *Grave* took *Fearn* by the Arm and rais'd him up gently from the Longſettle, and endeavour'd to put him out; but *Fearn*, of his own Accord, drop'd upon his Knees, and afterwards laid himſelf at his full Length upon the Floor, in order, as he (this Witneſs) apprehended, to prevent himſelf from being turn'd out; but *Tom Grave* lifted him up again and put him out of the Houſe, and ſhut the Door, and it was then a little paſt Eight o'Clock. Soon after this, *George Williamſon, the Deceas'd, John Croſland*, and *this Witneſs*, all went back to the Mill, to the Buſineſs they came about, where *Grave* continu'd about half an Hour, and then return'd to his own Houſe: But he had not been gone out of the Mill above three or four Minutes at moſt, before *Fearn*'s Son came running into the Mill, and cried out, *A Doctor, A Doctor*, and bid *Croſland* go for one; but he (the Witneſs) and *George Williamſon*, ran back to *Grave*'s Houſe, and found him wounded in ſeveral Parts of his Body, and upon opening his Waiſtcoat, the Blood

guſhed

gushed out of his Wounds like a Sheep that was stuck; and that then it was a little after Nine o'Clock.

George Williamson was call'd next, who confirmed and coroborated, in the most exact Manner, *Benjamin Chapman*'s Evidence.

Theodosia Grave, the Widow of the Deceas'd, depos'd, 'That about Nine o'Clock in the Evening, of the 24th of *February* last, *Josiah Fearn* came into her Husband's House, having been twice there before; that she was making the Cradle, and going to put her Child in it; that *Fearn* said, *You shall not put your Child there*, and, giving her much abusive Language, took the Cradle and Cradle-Cloaths, and put them upon the Fire; (the Maid then having the Child in her Lap) presently after which *Thomas Grave* return'd back from the Mill, where he had been with *Benjamin Chapman*, *George Williamson*, and *John Crosland*, into his own House, and being inform'd what had happen'd, told *Fearn*, *That he would not suffer his Wife to be so abus'd*; and that *If he would not behave himself better he would turn him out*; but *Fearn* still continuing his ill Usage, *Grave* took hold of him by the Shoulder, and turn'd him out to the Door; that neither *Fearn* nor the Deceas'd went above two Yards from the Door; that she stood by them all that Time, which was not above a Minute, when *Fearn*'s Son came up to 'em, and then he (the Prisoner) endeavour'd to get into the House again, but the Deceas'd oppos'd him; and upon that *Josiah Fearn* thrust the Deceas'd backwards into the House, and follow'd him; that they were not got above two Yards into the House, when she saw *Josiah Fearn* immediately with his Right Hand, give the Deceas'd several Thrusts or Pushes, on the Left Side of his Body; upon which, her Husband instantly

ly cried out, *You have done me an Injury, you have ſtruck me with ſomething ſharp*; and the Deceas'd then opening his Waiſtcoat, ſhe perceiv'd that he was wounded and bleeding faſt.——This Witneſs alſo confirm'd what *Chapman* and *Williamſon* depos'd, in the moſt material Circumſtances, as to *Fearn*'s Behaviour at the firſt and ſecond Time of his coming, but ſaid, 'She was in ſuch Confuſion, upon ſeeing her Husband in ſo diſmal a Situation, that ſhe could not take upon her to recollect every Particular.'

Elizabeth Wilkinſon, Servant to the Deceas'd, ſpoke much to the ſame Purpoſe, in regard to *Fearn*'s Behaviour the three ſeveral Times of his being in the Houſe; and added, 'She ſaw the Priſoner at the Bar puſh the Deceas'd three or four Times, and that ſhe believed he then receiv'd his Wounds, for that he inſtantly cried out, *You have done me an Injury, You have ſtruck me with ſomething Sharp.*'

All the Witneſſes for the Crown agreed, That there was no Paſſion ſhewn, nor Provocation given, on the Part of the Deceas'd. And ſome of theſe Witneſſes being examin'd, Whether the Priſoner was not in Liquor at the Time when this happen'd, anſwered, "He might have drank a little more than common, but not ſo flush'd as to be inſenſible of what he ſaid or did.' And all agreed, That the Deceas'd did not ſtrike *Fearn*, or uſe any Kind of Force whatſoever, except what was abſolutely neceſſary to remove him out of the Houſe (*d*).

Then

(*d*) One of the Witneſſes (but which of them *The Reporter* cannot poſitively ſay) upon being croſs-

Then the Surgeons were call'd in.

Mr *John Dinſdale*, who was the firſt Surgeon ſent for to the Deceaſed's Aſſiſtance, depoſed, 'That upon findinghim in ſuch a Condition, he order'd him to be put into a warm Bed immediately: That at firſt View he diſcover'd only three Wounds, one upon his Breaſt, a ſecond near the Pitt of the Stomach, and a third below the Navel, and all pretty much in a right Line; but upon turning *Grave*on his Right Side, he diſcover'd a large Wound upon the Left Side of his Body, upon which he propos'd to have further Aſſiſtance, and Mr *Francis Bilham* was ſent for and came in; that afterwards, Mr *Benjamin Wynn*, and Mr *William Dawſon*, two other Surgeons were alſo ſent for; and that Dr *Milner* and Dr *Taylor* at Times attended the Deceas'd.'——The Surgeons deſcribed to the Court the Nature of the ſeveral Wounds; and being aſk'd by the Counſel for the King, 'Whether they had uſed all the Means their Art could ſupply for the Recovery of the Deceas'd;' they declared they had done ſo; and that it was their unanimous Opinion, that thoſe Wounds were the Cauſe of *Thomas Grave*'s Death; and one of thoſe Gentlemen further added, 'That the fourth Wound before-mention'd, would of itſelf alone moſt certainly have been Mortal;' and they all agreed, that the Deceas'd retain'd his Senſes to the laſt.——But none of the Evidences could pretend to affirm with what Inſtrument the Wounds were given.——The Deceas'd's bloody Waiſtcoat was produc'd in Court by the Mayor of *Leeds*'s Servant, in which were ſeveral Holes anſwering to the Wounds, the Dimenſions of which had been drawn out upon a Paper, and were produc'd in Court.

croſs-examin'd as to the Nature of the Force uſed by the Deceas'd in turning the Priſoner out of his Houſe, declar'd, 'He took him *gently* by the Shoulder.'

Mr *John Gray* depos'd, 'That within twelve Months laſt paſt, he heard *Fearn* ſay, ſeveral Times, That he would be reveng'd of the Deceas'd.'

Mr *Thomas Wood* depos'd, 'That about the 3d of *December* laſt, betwixt Ten and Eleven at Night, *Joſiah Fearn* came into *Thomas Grave*'s Houſe, and abus'd him very much; That *Thomas Grave* deſir'd him to go home, and ſaid, *He would not talk to him*; That *Fearn*, when he thought fit, went away; and the Deceas'd deſired this Witneſs not to leave him; That ſoon after *Grave* laid himſelf down by the Fire, according to his uſual Manner when watching the Mill: That in about three Quarters of an Hour *Fearn* came in again, with his Night-Cap on, and Slip-ſhod, with his Stockings hanging looſe down to his Ancles; and then *Grave* told him, 'He thought he had been in Bed;' That *Fearn* anſwered, 'He had been in Bed, but he 'could not reſt;' and at the ſame Time he ſtruck his Hand upon his own Breaſt, and directing his Diſcourſe to the deceas'd, ſaid, Jos Fearn *can never reſt 'till he be reveng'd on Thee.*

Mr *James Lee* depos'd, 'That about the *Tueſday* Fortnight before this Misfortune happen'd, he heard *Fearn* ſay, He would never be reconcil'd with *Tom Grave*.'

Mrs *Deborah Southwell* depos'd, 'That the ſame Day *Fearn* was committed to *York* Caſtle, ſhe went to ſee him, and upon telling him ſhe was ſorry to ſee him in that Place, and eſpecially upon ſuch an Occaſion, and that, if *Grave* died of his Wounds, ſhe fear'd his Life would be in Danger; *Fearn* wept, and ſaid, 'He ſhould never have ſought for Revenge on poor *Tom Grave*, had it not been for the *Leeds* Gentlemen;' and added, 'But we ought not to ſpeak againſt Magiſtrates.'

It

It may not be improper in this Place to take Notice, that *Fearn* was apprehended and taken out of his own Bed, at Two o'Clock on *Saturday* Morning the 25th of *February*, and carried before *Henry Scott*, Esq; Mayor of *Leeds*, and on *Sunday* he was committed to the Caſtle of *York*.

The Deceas'd, on the firſt Day of this Inſtant *March* (the Day before he died) having ſent to the Mayor, to deſire him to come down to take his Information, that Gentleman went accordingly. And the ſaid Information, made upon Oath, ſign'd by the ſaid *Grave*, and expreſs'd as near as poſſible in his own Words, was read in Court:

IT *ſet forth, That on* Friday *Night the* 24*th of* February, Joſiah Fearn *came to the Informant's Houſe, when he was from Home; and (as the Informant was acquainted by his Wife when he came into his Houſe) had behaved himſelf very abuſively towards her, and had thrown the Child's Cradle and Cradle-Cloths upon the Fire-Place; and that the ſaid* Joſiah Fearn *ſtill continuing to miſbehave himſelf, the Informant took the ſaid* Joſiah Fearn *gently by the Hand, and endeavoured to put him out of Doors, ſoon after which, the ſaid* Joſiah Fearn *gave the Informant ſeveral Stabs or Thruſts upon his Body with ſomething that was Sharp, and thereby gave the Informant the ſeveral Wounds in his Body, of which he now lies dangerouſly Ill; that the Informant immediately ſaid,* Mr *Fearn*, you never uſed to Strike, but now you have ſtrucken very foully: *And the Informant further ſaid, That he never ſtruck the ſaid* Joſiah Fearn *at all, untill he had received the Wounds above-mentioned; and the Informant then told the ſaid* Joſiah Fearn, *that he, meaning the ſaid* Joſiah Fearn, *had given the Informant enough. And the Informant denied that he ſaid, he would throw the ſaid* Joſiah Fearn *into the* Goit, *or* Stream, *and he ſaid, that he did not give the ſaid* Joſiah Fearn *any threat'ning Language in any Kind.*

In the Priſoner's Defence, and in order to take off the Charge of *Malice Prepenſe*, *Thomas Weddell* depos'd, 'That on the 22d of *February* a Reference was propos'd in relation to ſome Matters in Difference betwixt *Grave* and *Fearn*. And that accordingly on the 24th in the Afternoon, the very Day the Misfortune happen'd, the Deceas'd and the Priſoner at the Bar came to his Houſe, having appointed a Meeting there to execute an Arbitration-Bond in relation to the aforemention'd Difference; that they ſeem'd to behave to each other in a friendly Manner, and with as much Appearance of Unity as any two Men could do; and particularly, that in naming of Arbitrators, *Fearn* declar'd, *That if the Deceas'd was inclinable to take that Perſon for a Referee whom he* (Fearn) *had nam'd for his own, that* Grave *was welcome to him; or that he would toſs up a Halfpenny which ſhould chuſe.*——This Witneſs further declar'd, that *Fearn* ſaid, *Let us name a third Perſon leſt the other two ſhould not agree, that we may hereafter live like Neighbours.*

John Thompſon ſpoke much to the ſame Purpoſe, and declar'd, 'That when a Reference was propos'd, *Grave* ſaid he would meet any where; that they met accordingly on the *Friday* aforeſaid, at Two o'Clock: But at Parting *Fearn* told the Deceas'd he ought to have been about his Buſineſs at the Mill two Hours before; that there ſeem'd great Friendſhip between 'em; but that he could not pretend to ſee into their Hearts. That he (this Witneſs) *John Thompſon*, the Deceas'd, and the Priſoner, ſat together five Hours, that they drank twelve Pints of Ale, and that Mr *Fearn* was not fuddled.

In the Priſoner's further Defence, and in order Abſolutely to clear him of the Whole Charge, *Suſannah Earle* depos'd, 'That ſhe liv'd in *Marſh-Lane*, in *Leeds*; that at about half an Hour after Eight, the Night

Night which this Misfortune happen'd, she had been at *John Smithie*'s to inquire for her Husband; that as she was coming home by the Mill she heard a Noise in *Thomas Grave*'s House; that the Door being wide open, she went up to it, and having a Lanthorn in her Hand, she saw *Fearn* down upon the Floor, with *Grave* and his Wife upon him, at the far Side of the House; that Mrs. *Grave* was lugging and pulling him; that she took up the Chair to beat him with, also the Tongs and Poker; that she spit in his Face several Times; that after this *Tom Grave* and his Wife dragg'd him by the Hoxters, and that the latter said, *Put him into the Goit.* Upon which *Fearn* cried out, *Surely*, Tom, *thou will not put me into the Goit.* To which *Grave* answered, *He's warm, but I'll cool him*: And the Wife said, *Aye, do, it's no more Sin to kill him than to kill a Chicken.* That *Fearn* cried out, *If we must fight, let it be on dry Land, and not in the Water.* That *Grave* further said to *Fearn, I will be reveng'd of thee, or thou of me.*—*Thou or I shall die this Night!* That *Grave* and *Fearn* were both in Liquor; but at last the Prisoner got loose from the Deceased, and went to his own House; that *Grave* and his Wife followed him; and that she threw a Poker at *Fearn*, which was found in his Door-Stead the next Morning.'

—Being asked, by the Prosecutor's Counsel, whether she supp'd at her own House that Evening, and what Time she came home? She answered, 'That she came home between Eleven and Twelve; but her Husband being drunk, she was so long in undressing him, and getting him to Bed, that she did not get to Bed herself 'till between One and Two; and that they did not lie together that Night, nor had done for some Time past.'

——Being farther asked who was in the Room besides *Grave*, his Wife, and *Fearn*? She said, 'She saw every Thing that was in the Room; and that there

there was nobody elſe preſent beſides, but the Maid and a Girl.'——Farther, 'That neither *Benjamin Chapman*, nor *George Williamſon*, were in the Room.' She agreed with the Witneſſes for the Crown, that there was no Candle, nor any Light in the Room but what came from the Fire; and that what ſhe ſaw was by the Light of a Halfpenny Candle in her own Horn Lanthern. She agreed with them that the Window-Shutters were cloſe put together; but ſaid the Door was wide open. — Being aſk'd if ſhe ſaid nothing, in her Way Home, concerning all this Miſchief ſhe had ſeen? She ſaid No. Being examin'd why ſhe did not tell her Husband? She anſwer'd, 'Becauſe he was a drunken kind of a Man, and ſhe did not care to truſt him with her Secrets. She alſo depos'd that the Deceas'd collar'd *Fearn*, tore his Cloaths, and vow'd Revenge upon him, and that his Cheek was bloody.——She alſo declar'd, 'That one *Ann Jackſon* was with her during the whole Time, and would confirm the Truth of every Thing ſhe had ſworn.

As the Evidence given by *Suſannah Earle* contradicted the Whole Concurrent Evidence, before given, on the Part of the Crown; in order to ſet aſide her Teſtimony, her own Husband, *James Earle*, was produc'd.—He depos'd, 'That between Six and Seven he went Home from his Work; that his Wife (the laſt-mention'd Witneſs) was then at Home; that they ſupp'd together; and that ſhe was not out that Night above five Minutes at the moſt, and that only at the next Neighbours; that they went to Bed together before Ten the Night the Wounds were given; that ſome Time after they were in Bed, one who lodg'd at his Houſe came in, and telling them, that *Fearn* had ſtab'd the Deceas'd, his Wife as well as himſelf were greatly ſurpriz'd at it. He further ſwore, that he was ſure his Wife knew nothing at all about the Whole Affair.

And

Ann Jackſon was propos'd to be call'd to ſupport the Evidence of *Suſannah Earle*; but the Priſoner did not think it prudent to have her examin'd.

The whole Trial laſted about ſeven Hours, and his Lordſhip having, with his uſual Candour, ſum'd up the Evidence, the Jury, without withdrawing from the Bar, but only conſulting together a few Minutes, brought the Priſoner in *Guilty of Murder.*

The Deceas'd has left Eight Children.—— There was the moſt crouded Audience, upon this melancholy Occaſion, ever known in the Memory of Man.

F I N I S.

The JUDGE's *SPEECH to the* PRISONER, *at passing Sentence of Death.*

Upon passing Sentence of Death upon the Convicts, on *Tuesday* the 14th Instant, the Judge addressed himself to *Josiah Fearn*, in Words to this Effect: *The barbarous Murder of which you stand convicted, appears to have been attended with such aggravating Circumstances, as but too plainly evince the malicious Intent of your Heart, against the innocent Victim of your vengeful Hand.—The only Circumstance that you could attempt to lay hold of, in your Defence, was, That it did not appear with what Instrument the horrid Fact was committed; which, far from alleviating, rather seem'd to heighten your Guilt, as it shewed the wicked Design to have been fully pre-concerted; inasmuch as you had prepared a secret Instrument, wherewith to effect it, and such an one as might probably be conveyed off afterwards without Discovery.—As therefore you have been so far from shewing any the least Mercy to your poor Fellow-Creature, you cannot yourself hope for any Mercy to be shewn to a Crime, which obliges Society to cut off such of its Members as are guilty of it, in order to secure the public Safety; which must otherwise be in perpetual Danger, from such as have thrown off all Regard to Laws, either Human or Divine.*

FINIS.